

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321L.2 and 321L.8, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 401, “Special Registration Plates,” and to rescind Chapter 411, “Persons With Disabilities Parking Permits,” Iowa Administrative Code, and adopt a new Chapter 411 with the same title.

Because there have been two significant statutory changes that affect the administration of permanent (nonexpiring) parking placards for persons with disabilities, the Department proposes rescinding existing Chapter 411 and adopting a new Chapter 411. Establishing a new chapter makes it easier for the Department to adopt a rule structure that aligns with the new statutory requirements and the procedures the Department has adopted to implement them and makes it easier for users to follow and understand.

The first statutory change was made by 2016 Iowa Acts, chapter 1067, which amended Iowa Code section 321L.2 to end the issuance of nonexpiring parking placards for persons with permanent disabilities. Under amended Iowa Code section 321L.2, placards issued on or after January 1, 2017, to persons with permanent disabilities may no longer be nonexpiring placards that have no expiration date, but instead must be “standard” placards that are valid only for a period of five years and that may be reissued every five years upon proof of continued medical need. Because the effective date provisions of this Act specified that the Act does not affect the validity of nonexpiring persons with disabilities placards issued before January 1, 2017, a nonexpiring placard issued before January 1, 2017, will remain valid unless and until it is either lost, damaged, stolen, revoked, relinquished, or otherwise canceled or terminated pursuant to Iowa Code chapter 321L and 761—Chapter 411.

2016 Iowa Acts, chapter 1067, retained the requirement that a parking placard be displayed only when the vehicle is parked in a persons with disabilities parking space, but added the requirement that the placard be displayed in a manner that allows the entire placard to be visible through the vehicle’s windshield.

The second statutory change was made by 2016 Iowa Acts, chapter 1111, which amended Iowa Code section 321L.2 to add a provision specific to veterans. Before this legislation, under Iowa Code section 321L.2, a person applying for a persons with disabilities parking permit could demonstrate eligibility for the permit only by including a statement from a physician licensed under Iowa Code chapter 148 or 149, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or a chiropractor licensed under Iowa Code chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state, written on the physician’s, physician assistant’s, nurse practitioner’s, or chiropractor’s stationery, that stated the nature of the person’s disability and such additional information as required by rules adopted by the Department under Iowa Code section 321L.8. The legislation retained this requirement and retained the existing definition of an eligible disability, but added another option for persons who are veterans and have a veterans disability rating from the U.S. Department of Veterans Affairs. Under the legislation, the Department may accept a certification of disability from the U.S. Department of Veterans Affairs in lieu of a statement from a physician, physician assistant, advanced registered nurse practitioner, or chiropractor. The legislation specified that the Department may adopt rules pursuant to Iowa Code chapter 17A detailing the requirements for an acceptable certification of disability from the U.S. Department of Veterans Affairs. Because the U.S. Department of Veterans Affairs has advised that its disability ratings are issued for vocational disability and cannot be correlated to the definition of “person with a disability” set forth in Iowa Code section 321L.1(8), which covers only disabilities that result in an impairment of mobility, the Department’s proposed rules provide that a veteran that submits a certification of disability from the U.S. Department of Veterans Affairs in lieu of a statement from

a physician, physician assistant, advanced registered nurse practitioner, or chiropractor must include a self-certification that the veteran is a person with a disability as defined in Iowa Code section 321L.1(8).

The proposed new Chapter 411 aligns with these statutory changes and the statutory requirements that were retained, as well as with Department procedures adopted to implement the statutory requirements. In addition, the Department proposes changes, which are incorporated in new Chapter 411, to eliminate unnecessary or outdated language; adopt and use consistent terms and phrases throughout the chapter; and generally make the language used throughout the chapter clearer and easier to understand and follow.

The proposed changes that are being incorporated into new Chapter 411 include the following:

- Rule 761—411.1(321L) reflects updates to the name of the responsible office and provides the physical and electronic locations at which applications may be obtained.
- Rule 761—411.2(321L) defines terms used throughout the chapter and incorporates the definitions included in Iowa Code section 321L.1.
- Rule 761—411.3(321L) addresses the application process, including where applications may be obtained and submitted, the required content of applications, the additional information needed for applications that are submitted by organizations, and what procedural requirements must be followed if a person chooses to submit a certification of disability from the U.S. Department of Veterans Affairs.
- Rule 761—411.4(321L) addresses the requirements that apply to removable windshield placards and specifically addresses the validity of nonexpiring placards issued before January 1, 2017; the issuance and period of validity for standard placards issued on or after January 1, 2017, to persons with a permanent disability and the conditions and process for renewing standard placards; the issuance and period of validity for temporary placards issued to persons with a temporary disability and the conditions and process for renewing temporary placards; and the issuance and period of validity for organizational placards and the conditions and process for renewing organizational placards; as well as the manner in which placards must be displayed, all in accordance with Iowa Code section 321L.2.
- Rule 761—411.5(321L) explains the eligibility, validity, and display requirements for a persons with disabilities special registration plate parking sticker, including who is eligible for the sticker and which circumstances must be met in order to qualify for the sticker, and clarifies the period of validity and the manner in which the sticker must be displayed.
- Rule 761—411.6(321L) maintains a reference to 761—Chapter 401 for information on persons with disabilities special registration plates.
- Rule 761—411.7(321L) reflects revisions relating to “return of persons with disabilities parking permit” to better describe the process for returning a placard to the Department and to separate this process from the revocation of a parking permit, which is described in rule 761—411.8(321L).
- Rule 761—411.8(321L) includes clarifying language regarding the revocation of a persons with disabilities parking permit to better describe the departmental practice for revoking a parking permit and to explain the process and timelines pertaining to the revocation of a persons with disabilities parking permit. Specifically, this rule describes the process for the revocation notice, effective date, service of notice, and the departmental verification of notice.
- Rule 761—411.9(321L) includes clarifying language regarding the appeal process to better describe the existing practice relating to appeal options and to describe the appeal process as it pertains to a persons with disabilities parking permit. The proposed amendment addresses the informal settlement, contested case and notice requirements that are defined in 761—Chapter 13.

Because the Department proposes the above changes to Chapter 411, the Department also proposes conforming amendments to rule 761—401.20(321). This rule concerns persons with disabilities plates. The proposed amendments to the rule comply with Iowa Code section 321L.2 and the requirements in 761—Chapter 411.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; e-mail: tracy.george@iowadot.us.
5. Be received by the Department's rules administrator no later than October 3, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, October 5, 2017, at 9 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.34, 321L.1 to 321L.4 and 321L.8.

The following amendments are proposed.

ITEM 1. Amend rule 761—401.20(321) as follows:

761—401.20(321) Persons with disabilities plates.

401.20(1) Application. Application for special plates with a persons with disabilities processed emblem shall be submitted to the county treasurer on a form prescribed by the department.

a. The application shall ~~include a signed statement written on the physician's, chiropractor's, physician assistant's or advanced registered nurse practitioner's letterhead. The statement comply with the requirements of 761—subrule 411.3(2) and shall certify that the owner or the owner's child is a~~ person with a disability, as defined in Iowa Code section 321L.1, and that the disability is permanent.

b. No change.

e. ~~A new application form is not required when an individual's application for issuance of persons with disabilities plates, disabled veteran plates, nonexpiring removable windshield placards or parking stickers has previously been approved.~~

d. c. In lieu of submitting the signed medical statement of disability required under paragraph 401.20(1) "a," in 761—subrule 411.3(2), an individual who is eligible for disabled veteran plates but has not been issued them may submit certification from the U.S. Department of Veterans Affairs that the United States government has provided or assisted in providing a motor vehicle to the individual.

401.20(2) No change.

401.20(3) Renewal. The owner shall, at renewal time, ~~provide a self-certification stating that the owner or the owner's child is still a person with a disability and, if the person with a disability is the owner's child, that the child still resides with the owner~~ submit a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the owner or the owner's child remains permanently disabled and has a continuing need for the plates.

ITEM 2. Rescind 761—Chapter 411 and adopt the following new chapter in lieu thereof:

CHAPTER 411

PERSONS WITH DISABILITIES PARKING PERMITS

761—411.1(321L) Information and applications. Information and applications regarding persons with disabilities parking permits are available, electronically or otherwise, by mail from the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278, in person at 6310 SE Convenience Blvd., Ankeny, Iowa, by telephone at (515)237-3110, by facsimile at (515)237-3056, or on the department's Web site at www.iowadot.gov.

761—411.2(321L) Definitions.

411.2(1) The definitions in Iowa Code section 321L.1 are hereby made part of and fully incorporated in this chapter.

411.2(2) As used in this chapter, unless the context otherwise requires:

“Health care provider” means a physician licensed under Iowa Code chapter 148 or 149, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or a chiropractor licensed under Iowa Code chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state as set forth in Iowa Code section 321L.2(1).

“Nonexpiring removable windshield placard” means a removable windshield placard issued on or before December 31, 2016, to a person with a permanent disability.

“Organization” means an applicant that is a corporation, partnership, sole proprietorship, business trust, estate, trust, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity lawfully doing business in the state of Iowa that has a program for transporting persons with disabilities or elderly persons.

“Permanent disability” means an applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and the disability will continue indefinitely without resolution and is reasonably expected to last the applicant’s lifetime.

“Standard removable windshield placard” means a removable windshield placard issued on or after January 1, 2017, to a person with a permanent disability.

“Statement of disability” means a communication, electronic or otherwise, originating from the applicant’s health care provider, which attests that the applicant is a person with a disability as defined in Iowa Code section 321L.1(8). The statement must state the nature of the applicant’s disability and indicate whether the applicant’s disability is “temporary” or “permanent.” If the disability is temporary, the statement shall state the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued, not to exceed six months. The statement must reasonably identify, on or within its contents, that it originated from the applicant’s health care provider.

“Temporary disability” means an applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and the disability is not permanent and is reasonably expected to last for only a limited period of time.

“Temporary removable windshield placard” means a removable windshield placard issued to a person with a temporary disability.

761—411.3(321L) Application for persons with disabilities parking permit.

411.3(1) General. An applicant shall submit a completed application for a persons with disabilities parking permit, including required supporting documentation, pursuant to this chapter and Iowa Code section 321L.2.

a. An applicant may request one of the following persons with disabilities parking permits by completing Form 411055:

- (1) Temporary removable windshield placard.
- (2) Standard removable windshield placard.
- (3) Persons with disabilities special registration plate parking sticker.
- (4) Persons with disabilities special registration plates. An applicant seeking persons with disabilities special registration plates must also submit an application as described in rule 761—401.20(321).

b. An organization seeking a persons with disabilities removable windshield placard shall complete Form 411355. An application made by an organization does not have to include a statement of disability.

411.3(2) Application requirements. An application shall include the applicant’s full legal name, address, date of birth, social security number or Iowa driver’s license number or Iowa nonoperator’s identification number, and a statement of disability from the applicant’s health care provider. However,

if the application is made on behalf of a person who is less than one year old, the application does not have to include a social security number, Iowa driver's license number, or nonoperator's identification card number for the person. In lieu of a statement of disability from a health care provider, an applicant who is certified by the U.S. Department of Veterans Affairs as having a permanent disability may submit both of the following with an otherwise completed persons with disabilities parking permit application:

a. Proof that the applicant is the subject of a certification of disability from the U.S. Department of Veterans Affairs.

b. A self-certification, verified under penalty of perjury, that states the nature of the applicant's disability and attests that the disability certified by the U.S. Department of Veterans Affairs is a permanent disability that impairs the applicant's mobility to the extent defined in Iowa Code section 321L.1(8). The self-certification must be attested to on the persons with disabilities parking permit application.

411.3(3) *Availability of application.* Applications may be obtained from any of the following:

a. The department's Web site as set forth in rule 761—411.1(321L).

b. The department's office of vehicle and motor carrier services.

c. A driver's license station.

d. A county treasurer's office.

e. The Office of Persons with Disabilities, Iowa Department of Human Rights, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

411.3(4) *Application submission.* Completed applications shall be submitted, electronically or otherwise, to any of the following:

a. The department's office of vehicle and motor carrier services.

b. A driver's license station.

c. A county treasurer's office.

411.3(5) *Application submitted by an organization.* An application submitted by an organization shall include the name, mailing address, telephone number, signature of its authorized representative, and if required to obtain one, the organization's federal employer identification number or federal tax identification number.

761—411.4(321L) Removable windshield placards.

411.4(1) *Nonexpiring removable windshield placards.*

a. Period of validity. A nonexpiring removable windshield placard issued on or before December 31, 2016, shall remain valid until the occurrence of any condition set forth in Iowa Code section 321L.3(1), the procedure set forth in rule 761—411.8(321L), and as otherwise specified by statute or rule.

b. Replacement. A lost, stolen, or damaged nonexpiring removable windshield placard shall be replaced with a standard removable windshield placard.

411.4(2) *Standard removable windshield placards.* A standard removable windshield placard may be issued only to a person with a permanent disability. A standard removable windshield placard shall not be issued to a person with a temporary disability or to an organization.

a. Period of validity. A standard removable windshield placard shall be valid for five years, and shall expire on the last day of the last month, five years from the month from which it was issued.

b. Renewal.

(1) *Submission of application.* A person who holds a valid standard removable windshield placard may renew the placard by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the applicant remains permanently disabled and has a continuing need for the placard.

(2) *Timing of renewal application.* An application to renew a standard removable windshield placard may be submitted up to 30 days before the current placard's expiration. The renewal or replacement placard shall be valid for five years, and shall expire on the last day of the last month, five years from the month from which it was issued.

411.4(3) Temporary removable windshield placards. A temporary removable windshield placard may be issued to the applicant if the application demonstrates the applicant has a temporary disability. A temporary removable windshield placard shall not be issued to an organization.

a. Period of validity. A temporary removable windshield placard shall be valid for the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued as shown by the statement of disability, but not to exceed six months.

b. Renewal.

(1) Submission of application. A person who holds a valid temporary removable windshield placard may renew the placard by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the applicant remains temporarily disabled.

(2) Timing of renewal application. An application to renew a temporary removable windshield placard may be submitted up to 30 days before the current placard's expiration. The renewal placard shall be valid for the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued as shown by the statement of disability, but not to exceed six months.

411.4(4) Removable windshield placards for an organization. An organization may be issued a removable windshield placard. A removable windshield placard issued to an organization shall be valid for four years and shall expire on the last day of the last month, four years from the month from which it was issued. The placard shall bear the name of the organization and the signature of its authorized representative. The organization may renew a placard issued to it by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) provided the organization continues to provide the service for which the placard was issued. If at any time the organization ceases providing the service for which the placard was issued, the organization shall immediately surrender the placard to the department.

411.4(5) Display of placards. A removable windshield placard shall only be displayed when the vehicle is parked in a persons with disabilities parking space. The removable windshield placard shall be displayed in a manner that allows the entire placard to be visible through the vehicle's windshield.

761—411.5(321L) Persons with disabilities special registration plate parking stickers.

411.5(1) Eligibility. A persons with disabilities special registration plate parking sticker may be issued to a person with a permanent disability who owns a motor vehicle for which the person has been issued disabled veteran plates under Iowa Code section 321.105 or registration plates under Iowa Code section 321.34. A special registration plate parking sticker shall not be issued to a person with a temporary disability or to an organization.

411.5(2) Validity. The special registration plate parking sticker shall remain valid for such period of time that the registration for the vehicle remains valid.

411.5(3) Display. The special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate, as required by rule 761—400.53(321).

761—411.6(321L) Persons with disabilities special registration plates. See 761—Chapter 401.

761—411.7(321L) Return of persons with disabilities parking permit. A persons with disabilities parking permit issued pursuant to this chapter and Iowa Code section 321L.2 shall be returned to the department within ten days of an occurrence of any of the events set forth in Iowa Code section 321L.3(1) and in the manner prescribed in Iowa Code section 321L.3(3).

761—411.8(321L) Revocation of a persons with disabilities parking permit.

411.8(1) Notice of revocation. Notice of revocation shall be in writing and shall specify the basis of the department's determination.

411.8(2) Effective date of permit revocation. Unless otherwise specified by statute or rule, a permit shall be considered revoked 30 days after the department's notice of revocation is served.

411.8(3) *Service of notice.* The department shall send a notice of revocation by first-class mail to the mailing address as shown on the pertinent application for a persons with disabilities parking permit.

411.8(4) *Departmental verification of service of notice.* The department may prepare an affidavit of mailing verifying the fact that a notice was mailed by first-class mail. To verify the mailing of a notice, the department may use its records in conjunction with U.S. Postal Service records available to the department. The department's affidavit of mailing may be attested to and certified in accordance with Iowa Code section 622.1.

761—411.9(321L) Appeal.

411.9(1) A person or organization whose persons with disabilities parking permit has been revoked may request an informal settlement or a contested case proceeding as provided in 761—Chapter 13 to contest said action.

411.9(2) The request shall be submitted in writing, to the director of the office of vehicle and motor carrier services, at the address listed in rule 761—411.1(321L), and may be submitted electronically by facsimile, e-mail or other means prescribed by the department. To be timely, the request must be submitted within ten days of the receipt of notice of revocation.

411.9(3) When the department receives a properly submitted, timely request for an informal settlement or contested case proceeding or an appeal of a presiding officer's proposed decision regarding a revocation, the department shall stay the revocation pending resolution of the informal resolution, contested case, or appeal.

These rules are intended to implement Iowa Code sections 321L.1 to 321L.4 and 321L.8.